



Reprinted  
January 25, 2005

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## HOUSE BILL No. 1248

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DIGEST OF HB 1248 (Updated January 24, 2005 5:36 pm - DI 107)

**Citations Affected:** IC 35-38; IC 35-50; IC 36-2.

**Synopsis:** Jail costs and monitoring devices. Allows a county to require persons sentenced for certain felonies and misdemeanors, including methamphetamine offenses, to reimburse the county for the costs of incarceration in the county jail. Allows a court to order: (1) a person of any age who is convicted of a crime; or (2) a juvenile who is adjudged delinquent by a juvenile court; on home detention to wear a monitoring device that uses a global positioning system (GPS) satellite service to transmit the location of the person or juvenile at all times.

**Effective:** July 1, 2005.

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**Grubb, Ulmer, Bischoff, Thomas**

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January 6, 2005, read first time and referred to Committee on Courts and Criminal Code.  
January 13, 2005, reported — Do Pass.  
January 24, 2005, read second time, amended, ordered engrossed.

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HB 1248—LS 7072/DI 107+



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January 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1248

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-38-2.5-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this  
3 chapter, "monitoring device" means an electronic device:

4 (1) that:

5 (A) is limited in capability to the recording or transmitting  
6 of information regarding an offender's presence or absence  
7 from the offender's home;

8 (B) is minimally intrusive upon the privacy of the offender  
9 or other persons residing in the offender's home; and

10 (C) with the written consent of the offender and with the  
11 written consent of other persons residing in the home at the  
12 time an order for home detention is entered, may record or  
13 transmit:

14 (A) (i) visual images;

15 (B) (ii) oral or wire communication or any auditory sound;

16 or

17 (C) (iii) information regarding the offender's activities while

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inside the offender's home; or

**(2) that:**

**(A) is worn by an offender; and**

**(B) uses the global positioning system (GPS) satellite service to transmit the location of the offender at all times.**

SECTION 2. IC 35-38-2.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. Before entering an order for home detention that requires the use of a monitoring device described in ~~section 3(3)~~ **section 3(1)** of this chapter, the court shall inform the offender and other persons residing in the home of the nature and extent of electronic surveillance provided by the monitoring device in the home.

SECTION 3. IC 35-50-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This section applies only:

(1) if the county in which a criminal proceeding was filed adopts an ordinance under IC 36-2-13-15; and

(2) to a person who is: ~~sentenced~~

**(A) sentenced** under this article for a felony or a misdemeanor; or

**(B) convicted of a methamphetamine offense under:**

**(i) IC 35-48-4-1;**

**(ii) IC 35-48-4-4.1;**

**(iii) IC 35-48-4-6; or**

**(iv) IC 35-48-4-14.5.**

(b) At the time the court imposes a sentence, the court may order the person to execute a reimbursement plan as directed by the court and make repayments under the plan to the county for the costs described in IC 36-2-13-15.

(c) The court shall fix an amount under this section that:

(1) may not exceed an amount the person can or will be able to pay;

(2) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and

(3) takes into consideration and gives priority to any other restitution, reparation, repayment, costs, fine, or child support obligations the person is required to pay.

(d) When an order is issued under this section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. Upon receiving the order, the clerk shall enter and index the order in the

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circuit court judgment docket in the manner prescribed by IC 33-32-3-2.

(e) An order under this section is not discharged:

(1) by the completion of a sentence imposed for a felony or misdemeanor; or

(2) by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, and IC 34-48-6 before their repeal).

SECTION 4. IC 36-2-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) As used in this section, "lawful detention" has the meaning set forth in IC 35-41-1-18.

(b) This section applies to a county only if the legislative body for the county elects by ordinance to implement this section.

(c) A person who is:

(1) ~~sentenced~~ **either:**

(A) ~~sentenced~~ under this article IC 35-50 for a felony or a misdemeanor; or

(B) **convicted of a methamphetamine offense under:**

(i) IC 35-48-4-1;

(ii) IC 35-48-4-4.1;

(iii) IC 35-48-4-6; or

(iv) IC 35-48-4-14.5;

(2) subject to lawful detention in a county jail for a period of more than seventy-two (72) hours;

(3) not a member of a family that makes less than **one hundred fifty percent** (150%) of the federal income poverty level; and

(4) not detained as a child subject to the jurisdiction of a juvenile court;

shall reimburse the county for the costs described in subsection ~~(d)~~ (e).

**(d) Subsection (c) does not apply to a person who is:**

**(1) under the custody of the department of correction; and**

**(2) confined at a county jail.**

~~(d)~~ (e) A person described in subsection (c) shall reimburse the county for the sum of the following amounts:

(1) The lesser of:

(A) the per diem amount specified under subsection ~~(e)~~ (f); or

(B) thirty dollars (\$30);

multiplied by each day or part of a day that the person is lawfully detained in a county jail or lawfully detained under IC 35-33-11-3 for more than six (6) hours.

(2) The direct cost of investigating whether the person is indigent.

(3) The cost of collecting the amount for which the person is

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liable under this section.

~~(e)~~ **(f)** The county fiscal body shall fix the per diem described in subsection ~~(d)(1)(A)~~ **(e)(1)(A)** in an amount that is reasonably related to the average daily cost of housing a person in the county jail. If the county transfers the person to another county or the department of correction under IC 35-33-11-3, the per diem is equal to the per diem charged to the county under IC 35-33-11-5.

~~(f)~~ **(g)** The county sheriff shall collect the amounts due from a person under this section in conformity with the procedures specified in the ordinance adopted under subsection (b). If the county sheriff does not collect the amount due to the county, the county attorney may collect the amount due.

SECTION 5. IC 36-2-13-15.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.3. (a) As used in this section, "lawful detention" has the meaning set forth in IC 35-41-1-18.

(b) This section applies only:

(1) to a county having a population of less than six thousand (6,000); and

(2) if the legislative body for the county elects by ordinance to implement this section.

(c) A person who is:

(1) ~~sentenced either:~~

**(A) sentenced under this article IC 35-50 for a felony or a misdemeanor; or**

**(B) convicted of a methamphetamine offense under:**

**(i) IC 35-48-4-1;**

**(ii) IC 35-48-4-4.1;**

**(iii) IC 35-48-4-6; or**

**(iv) IC 35-48-4-14.5;**

(2) subject to lawful detention in a county jail for a period of more than six (6) hours;

(3) not a member of a family that makes less than **one hundred fifty percent** (150%) of the federal income poverty level; and

(4) not detained as a child subject to the jurisdiction of a juvenile court;

shall reimburse the county for the costs described in subsection ~~(d)~~ **(e)**.

**(d) Subsection (c) does not apply to a person who is:**

**(1) under the custody of the department of correction; and**

**(2) confined at a county jail.**

~~(d)~~ **(e)** A person described in subsection (c) shall reimburse the county for the sum of the following amounts:

(1) The lesser of:

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1 (A) the per diem amount specified under subsection ~~(e)~~; **(f)**; or  
 2 (B) fifty dollars (\$50);  
 3 multiplied by each day or part of a day that the person is lawfully  
 4 detained in a county jail or lawfully detained under IC 35-33-11-3  
 5 for more than six (6) hours.  
 6 (2) The direct cost of investigating whether the person is indigent.  
 7 (3) The cost of collecting the amount for which the person is  
 8 liable under this section.  
 9 ~~(e)~~ **(f)** The county fiscal body shall fix the per diem described in  
 10 subsection ~~(d)(1)(A)~~ **(e)(1)(A)** in an amount that is reasonably related  
 11 to the average daily cost of housing a person in the county jail. If the  
 12 county transfers the person to another county or the department of  
 13 correction under IC 35-33-11-3, the per diem is equal to the per diem  
 14 charged to the county under IC 35-33-11-5.  
 15 ~~(f)~~ **(g)** The county sheriff shall collect the amounts due from a  
 16 person under this section in conformity with the procedures specified  
 17 in the ordinance adopted under subsection (b). If the county sheriff  
 18 does not collect the amount due to the county, the county attorney may  
 19 collect the amount due.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1248, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ULMER, Chair

Committee Vote: yeas 12, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1248 be amended to read as follows:

Page 1, between the enacting clause and line 1, being a new paragraph and insert:

"SECTION 1. IC 35-38-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "monitoring device" means an electronic device:

(1) that:

~~(1)~~ (A) is limited in capability to the recording or transmitting of information regarding an offender's presence or absence from the offender's home;

~~(2)~~ (B) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; and

~~(3)~~ (C) with the written consent of the offender and with the written consent of other persons residing in the home at the time an order for home detention is entered, may record or transmit:

~~(A)~~ (i) visual images;

~~(B)~~ (ii) oral or wire communication or any auditory sound; or

~~(C)~~ (iii) information regarding the offender's activities while inside the offender's home; or

(2) that:

(A) is worn by an offender; and

(B) uses the global positioning system (GPS) satellite service to transmit the location of the offender at all times.

SECTION 2. IC 35-38-2.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. Before entering an order for home detention that requires the use of a monitoring device described in ~~section 3~~ ~~(3)~~ **section 3(1)** of this chapter, the court shall inform the offender and other persons residing in the home of the nature and extent of electronic surveillance provided by the monitoring device in the home."

Renumber all SECTIONS consecutively.

(Reference is to HB 1248 as printed January 14, 2005.)

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1248 be amended to read as follows:

Page 1, line 6, delete "is" and insert "is:".

Page 1, line 6, delete "convicted:".

Page 1, line 7, after "(A)" insert "**sentenced**".

Page 1, line 7, reset in roman "this article".

Page 1, line 7, delete "IC 36-2".

Page 1, line 9, after "(B)" insert "**convicted**".

Page 2, line 28, delete "convicted:" and insert "**either:**".

Page 2, line 29, after "(A)" insert "**sentenced**".

Page 2, line 29, strike "this article" and insert "**IC 35-50**".

Page 2, line 30, after "(B)" insert "**convicted**".

Page 3, line 34, delete "convicted:" and insert "**either:**".

Page 3, line 35, after "(A)" insert "**sentenced**".

Page 3, line 35, strike "this article" and insert "**IC 35-50**".

Page 3, line 36, after "(B)" insert "**convicted**".

(Reference is to HB 1248 as printed January 14, 2005.)

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